

Calendar No. 1056

110TH CONGRESS
2D SESSION

S. 642

[Report No. 110–485]

To codify Executive Order 12898, relating to environmental justice, to require the Administrator of the Environmental Protection Agency to fully implement the recommendations of the Inspector General of the Agency and the Comptroller General of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2007

Mr. DURBIN (for himself, Mr. KERRY, Mr. MENENDEZ, Mrs. CLINTON, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

SEPTEMBER 24 (legislative day, SEPTEMBER 17), 2008

Reported by Mrs. BOXER, without amendment

A BILL

To codify Executive Order 12898, relating to environmental justice, to require the Administrator of the Environmental Protection Agency to fully implement the recommendations of the Inspector General of the Agency and the Comptroller General of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Environmental Justice
3 Act of 2008”.

4 **SEC. 2. CODIFICATION OF EXECUTIVE ORDER 12898.**

5 (a) IN GENERAL.—The President of the United
6 States is authorized and directed to execute, administer
7 and enforce as a matter of Federal law the provisions of
8 Executive Order 12898, dated February 11, 1994, (“Fed-
9 eral Actions To Address Environmental Justice In Minor-
10 ity Populations and Low-Income Populations”) with such
11 modifications as are provided in this section.

12 (b) DEFINITION OF ENVIRONMENTAL JUSTICE.—For
13 purposes of carrying out the provisions of Executive Order
14 12898, the following definitions shall apply:

15 (1) The term “environmental justice” means
16 the fair treatment and meaningful involvement of all
17 people regardless of race, color, national origin, edu-
18 cational level, or income with respect to the develop-
19 ment, implementation, and enforcement of environ-
20 mental laws and regulations in order to ensure
21 that—

22 (A) minority and low-income communities
23 have access to public information relating to
24 human health and environmental planning, reg-
25 ulations and enforcement; and

1 (B) no minority or low-income population
 2 is forced to shoulder a disproportionate burden
 3 of the negative human health and environ-
 4 mental impacts of pollution or other environ-
 5 mental hazard.

6 (2) The term “fair treatment” means policies
 7 and practices that ensure that no group of people,
 8 including racial, ethnic, or socioeconomic groups
 9 bear disproportionately high and adverse human
 10 health or environmental effects resulting from Fed-
 11 eral agency programs, policies, and activities.

12 (c) JUDICIAL REVIEW AND RIGHTS OF ACTION.—
 13 The provisions of section 6–609 of Executive Order 12898
 14 shall not apply for purposes of this Act.

15 **SEC. 3. IMPLEMENTATION OF RECOMMENDATIONS BY EN-**
 16 **VIRONMENTAL PROTECTION AGENCY.**

17 (a) INSPECTOR GENERAL RECOMMENDATIONS.—The
 18 Administrator of the Environmental Protection Agency
 19 shall, as promptly as practicable, carry out each of the
 20 following recommendations of the Inspector General of the
 21 agency as set forth in report # 2006–P–00034 entitled
 22 “EPA needs to conduct environmental justice reviews of
 23 its programs, policies and activities”:

24 (1) The recommendation that the agency’s pro-
 25 gram and regional offices identify which programs,

1 policies, and activities need environmental justice re-
2 views and require these offices to establish a plan to
3 complete the necessary reviews.

4 (2) The recommendation that the Administrator
5 of the agency ensure that these reviews determine
6 whether the programs, policies, and activities may
7 have a disproportionately high and adverse health or
8 environmental impact on minority and low-income
9 populations.

10 (3) The recommendation that each program
11 and regional office develop specific environmental
12 justice review guidance for conducting environmental
13 justice reviews.

14 (4) The recommendation that the Administrator
15 designate a responsible office to compile results of
16 environmental justice reviews and recommend appro-
17 priate actions.

18 (b) GAO RECOMMENDATIONS.—In developing rules
19 under laws administered by the Environmental Protection
20 Agency, the Administrator of the Agency shall, as prompt-
21 ly as practicable, carry out each of the following rec-
22 ommendations of the Comptroller General of the United
23 States as set forth in GAO Report numbered GAO-05-
24 289 entitled “EPA Should Devote More Attention to En-
25 vironmental Justice when Developing Clean Air Rules”:

1 (1) The recommendation that the Administrator
2 ensure that workgroups involved in developing a rule
3 devote attention to environmental justice while draft-
4 ing and finalizing the rule.

5 (2) The recommendation that the Administrator
6 enhance the ability of such workgroups to identify
7 potential environmental justice issues through such
8 steps as providing workgroup members with guid-
9 ance and training to helping them identify potential
10 environmental justice problems and involving envi-
11 ronmental justice coordinators in the workgroups
12 when appropriate.

13 (3) The recommendation that the Administrator
14 improve assessments of potential environmental jus-
15 tice impacts in economic reviews by identifying the
16 data and developing the modeling techniques needed
17 to assess such impacts.

18 (4) The recommendation that the Administrator
19 direct appropriate agency officers and employees to
20 respond fully when feasible to public comments on
21 environmental justice, including improving the agen-
22 cy's explanation of the basis for its conclusions, to-
23 gether with supporting data.

24 (c) 2004 INSPECTOR GENERAL REPORT.—The Ad-
25 ministrators of the Environmental Protection Agency shall,

1 as promptly as practicable, carry out each of the following
2 recommendations of the Inspector General of the agency
3 as set forth in the report entitled “EPA Needs to Consist-
4 ently Implement the Intent of the Executive Order on En-
5 vironmental Justice” (Report No. 2004–P–00007):

6 (1) The recommendation that the agency clearly
7 define the mission of the Office of Environmental
8 Justice (OEJ) and provide agency staff with an un-
9 derstanding of the roles and responsibilities of the
10 office.

11 (2) The recommendation that the agency estab-
12 lish (through issuing guidance or a policy statement
13 from the Administrator) specific time frames for the
14 development of definitions, goals, and measurements
15 regarding environmental justice and provide the re-
16 gions and program offices a standard and consistent
17 definition for a minority and low-income community,
18 with instructions on how the agency will implement
19 and operationalize environmental justice into the
20 agency’s daily activities.

21 (3) The recommendation that the agency ensure
22 the comprehensive training program currently under
23 development includes standard and consistent defini-
24 tions of the key environmental justice concepts (such
25 as “low-income”, “minority”, and “disproportion-

1 ately impacted”) and instructions for implementa-
2 tion of those concepts.

3 (d) REPORT.—The Administrator shall submit an ini-
4 tial report to Congress within 6 months after the enact-
5 ment of this Act regarding the Administrator’s strategy
6 for implementing the recommendations referred to in sub-
7 sections (a), (b), and (c). Thereafter, the Administrator
8 shall provide semi-annual reports to Congress regarding
9 his progress in implementing such recommendations as
10 well as his progress on modifying the Administrator’s
11 emergency management procedures to incorporate envi-
12 ronmental justice in the agency’s Incident Command
13 Structure (in accordance with the December 18, 2006, let-
14 ter from the Deputy Administrator to the Acting Inspector
15 General of the agency).

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